

### **REMARKS**

The Office Action dated November 26, 2008 has been received and reviewed. This response, submitted along with a Petition for a Two-Month Extension of Time and a Request for Continued Examination (RCE), is directed to that action.

Claims 1 and 33 have been amended and claims 13-18, 22, 24 and 30-31 have been cancelled. Support for the amendment to claim 1 can be found throughout the specification, and particularly in claims 13-17 as originally filed. No new matter has been added.

The applicants respectfully request reconsideration in view of the foregoing amendments and the following remarks.

#### **Claim Rejections- 35 U.S.C. §112**

The Examiner rejected claims 22, 30, 33 and 34 under 35 U.S.C. §112, first and second paragraph as being indefinite and lacking enablement. The applicants respectfully submit that the cancellation of claims 22 and 30, and the amendments to claim 33 render the present rejections under 35 U.S.C. §112 moot. Therefore, the applicants request that the Examiner withdraw these rejections.

#### **Claim Rejections- 35 U.S.C. §102**

The Examiner rejected claims 1-5, 7, 9, 10, 12, 19-20, 24-27, 29, 30 and 36 under 35 U.S.C. §102 as anticipated by Speed et al. (US 2002/0187910). The applicants respectfully submit that the amendments to the claims herein, whereby the limitations of

previous claim 17 have been incorporated into claim 1, render this rejection moot. Withdrawal of this rejection is respectfully requested.

Claim Rejections- 35 U.S.C. §103

The Examiner rejected claims 1-5, 7, 9, 10, 12, 19-22, 24-27, 29, 30, 33, 34 and 36 stand rejected under 35 U.S.C. §103(a) as obvious over Ginn (US 4,588,080) and Speed et al. The applicants again submit that the amendments to claim 1 obviate this rejection, and respectfully request that it be withdrawn.

The Examiner also rejected claims 13-18 under 35 U.S.C. §103(a) as obvious over Ginn in view of Waeschenbach et al. (WO 00/06688, as evidenced by US 6,800,598). The applicants respectfully traverse this rejection.

The applicants submit that a *prima facie* case of obviousness cannot be established because the references, as combined, do not teach all of the limitations of the presently claimed invention, and furthermore, the skilled artisan would not be motivated to make the necessary modifications to the prior art to achieve the presently claimed invention. The presently claimed invention requires that the hydrophilic and hydrophobic components of the claimed closure abut one another. Neither Ginn nor Waeschenbach teaches the claimed arrangement of layers.

Moreover, a skilled artisan would expect that hydrophilic and hydrophobic layer would be incompatible when layered and abutted against one another. Therefore, it was surprising that the manufacture of a bi-layer structure was even possible. However, it was even more surprising and unexpected that the presently claimed arrangement creates the strongest synergistic mutual supporting relationship. (See paragraphs [0039] through

